

in paragraph (d) of this section, all entities in which the individual or entity holds a substantial beneficial interest shall be subject to a reduction in payments in the manner specified in paragraph (d)(2).

Subpart E—Cash Rent Tenants

§ 1400.401 Eligibility.

(a) Any tenant that is actively engaged in farming in accordance with the provisions of subpart C and conducts a farming operation in which the tenant rents the land for cash, for a crop share guaranteed as to the amount of the commodity, or by any arrangement in which the tenant does not compensate the landlord by cash or a crop share, and receives benefits, with respect to such land under a program specified in § 1400.1(a) shall be ineligible to receive any payment with respect to such cash-rented land unless the tenant makes a significant contribution to the farming operation of:

- (1) Active personal labor; or
- (2) Active personal management and equipment. If such equipment is leased by the tenant from:
 - (i) The landlord, the lease must reflect the fair market value of the equipment leased; and
 - (ii) The same individual or entity that is providing hired labor to the farming operation, the contracts for the lease of the equipment and for the hired labor must be two separate contracts that reflect the fair market value of the leased equipment and the hired labor and the tenant must exercise complete control over the use of a significant amount of the equipment during the current crop year.

(b) [Reserved]

Subpart F— Foreign Persons

§ 1400.501 Eligibility.

(a) Any person who is not a citizen of the United States or a lawful alien shall be ineligible to receive payments, loans and benefits, with respect to any commodity produced, or land set aside from production, on a farm that is owned or operated by such person unless such person is an individual who is providing land, capital, and a substan-

tial amount of active personal labor on such farm.

(b)(1) A corporation or other entity shall be ineligible to receive payments, loan, and benefits if more than 10 percent of the beneficial ownership of the entity is held by persons who are not citizens of the United States or lawful aliens unless each foreign individual who is a stockholder or other type of member provides a substantial amount of active personal labor in the production of crops on a farm owned or operated by such an entity. However, upon the written request of the entity, the Deputy Administrator may make payments in an amount determined by the Deputy Administrator to be representative of the percentage interest of the entity that is owned by citizens of the United States and lawful aliens or foreign stockholders or other type of member who provide a significant contribution of active personal labor in the production of crops on a farm owned or operated by such entity.

(2) In determining whether more than 10 percent of the beneficial ownership of an entity is held by persons who are not citizens of the United States or by lawful aliens, the beneficial ownership interest shall be the higher of the amount of such interest on:

- (i) The date the applicable program contract or agreement is executed by the entity; or
- (ii) Any other date prior to the final harvest date that is determined and announced by the Deputy Administrator to be normal in the area for the applicable program crop.

(3) A corporation or other entity shall inform the county committee of any increase in such ownership that occurs after the applicable program contract or agreement is executed.

(4) In the event of an increase in such ownership after a payment, loan, or benefit has been made, the entity shall refund such payment, loan, or benefit.

(5) Where there is only one class of stock or other similar unit of ownership, an individual's or entity's percentage share of the limited partnership, corporation or other similar entity shall be based upon the outstanding shares of stock or other similar unit of